



## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-533-925]

#### Melamine from India: Final Affirmative Countervailing Duty Determination and Critical Circumstances Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers and exporters of melamine from India. This investigation covers one mandatory respondent, Gujarat State Fertilizers and Chemicals Limited (Gujarat Fertilizers), and the period (POI) January 1, 2023, through December 31, 2023.

DATES: Applicable [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Paul Kebker or Dylan Hill, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2254 or (202) 482-1197, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

On July 22, 2024, Commerce published in the *Federal Register* its *Preliminary Determination* in the countervailing duty (CVD) investigation of melamine from India.<sup>1</sup> Also on July 22, 2024, Commerce tolled certain deadlines in this investigation by seven days.<sup>2</sup> On

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<sup>1</sup> See *Melamine from India: Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, and Alignment of Final Determination with the Final Antidumping Duty Determination*, 89 FR 59055 (July 22, 2024) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

<sup>2</sup> See Memorandum, “Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings,” dated July 22, 2024.

October 16, 2024, Commerce issued its post-preliminary determination regarding new subsidy allegations.<sup>3</sup>

Because Commerce aligned the deadline for this final determination with the deadline for the final determination in the less-than-fair-value (LTFV) investigation of melamine from India, the deadline for the final determination is now February 6, 2025.<sup>4</sup>

For a complete description of the events that occurred after Commerce issued the *Preliminary Determination*, see the Issues and Decision Memorandum.<sup>5</sup> The Issues and Decision Memorandum is a public document that is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

### Scope of the Investigation

The product covered by this investigation is melamine from India. For a complete description of the scope of the investigation, see Appendix I to this notice.

### Scope Comments

We received no comments from interested parties on the scope of the investigation as it appeared in the *Preliminary Determination*.<sup>6</sup> Therefore, we made no changes to the scope of the investigation.

### Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), in October 2024, Commerce conducted a verification of the information reported by Gujarat Fertilizers and

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<sup>3</sup> See Memorandum, "Post-Preliminary Decision Memorandum," dated October 16, 2024 (Post-Preliminary Memorandum).

<sup>4</sup> See *Preliminary Determination*, 89 FR at 59056; see also *Melamine from India: Postponement of Final Determination of Sales at Less Than Fair Value Investigation*, 89 FR 84533 (October 23, 2024).

<sup>5</sup> See Memorandum, "Issues and Decision Memorandum for the Final Affirmative Determination of the Countervailing Duty Investigation of Melamine from India," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

<sup>6</sup> See *Preliminary Determination*, 89 FR at 59055 and Appendix I.

the Government of India (GOI). As explained in the accompanying Issues and Decision Memorandum, Commerce was not able to verify the information provided by Gujarat Fertilizers due to its lack of cooperation at verification. Commerce was able to complete its verification of the GOI. Commerce used standard verification procedures, including an examination of relevant documents provided at verification, in conducting its verification of the GOI.

#### Analysis of Subsidy Programs and Comments Received

We have discussed the subsidy programs under investigation, and addressed the issues raised in interested parties' case and rebuttal briefs in the Issues and Decision Memorandum. For a list of the issues addressed in the Issues and Decision Memorandum, *see* Appendix II.

#### Methodology

Commerce conducted this investigation in accordance with section 701 of the Act. For each of the subsidy programs found to be countervailable, Commerce has determined that the program provides a subsidy, *i.e.*, Commerce found that there was a financial contribution by an "authority," the financial contribution provided a benefit to the recipient, and the subsidy is specific.<sup>7</sup> In making this determination, Commerce relied on total adverse facts available (AFA) with respect to Gujarat Fertilizers based on its lack of cooperation at verification and partial AFA with respect to the GOI because it did not act to the best of its ability to respond to Commerce's requests for information.<sup>8</sup> For a full description of the methodology underlying this final determination, including Commerce's application of AFA, *see* the Issues and Decision Memorandum.

#### Final Affirmative Determination of Critical Circumstances

In accordance with sections 705(a)(2), and 776(a) and (b) of the Act, and 19 CFR 351.206,<sup>9</sup> Commerce continues to find that critical circumstances exist with respect to imports of

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<sup>7</sup> *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

<sup>8</sup> *See* sections 776(a) and (b) of the Act.

<sup>9</sup> *See Preliminary Determination PDM.*

melamine from Gujarat Fertilizers and all other producers/exporters of melamine in India. For a full discussion of Commerce's critical circumstances determination, *see* the Issues and Decision Memorandum.

#### Changes Since the *Preliminary Determination* and Post-Preliminary Analysis

As noted above, we are now basing Gujarat Fertilizers' countervailable subsidy rate on total AFA. For a discussion of this change, *see* the Issues and Decision Memorandum.

#### All-Others Rate

Section 705(c)(5)(A) of the Act provides that in a final determination, Commerce shall determine an estimated all-others rate for companies not individually examined equal to the weighted average of the estimated countervailable subsidy rates established for exporters and producers individually examined, excluding any zero or *de minimis* countervailable subsidy rates and any rates based entirely under section 776 of the Act (facts available). If the individual estimated countervailable subsidy rates established for all exporters and producers individually examined are zero, *de minimis*, or determined entirely under section 776 of the Act, section 705(c)(5)(A)(ii) of the Act provides that Commerce may use any reasonable method to establish an estimated all-others countervailable subsidy rate for exporters and producers not individually investigated, including averaging the weighted average countervailable subsidy rates determined for the exporters and producers individually investigated.

Commerce determined Gujarat Fertilizers' estimated countervailable subsidy rate entirely under section 776 of the Act. Gujarat Fertilizers is the sole producer/exporter individually examined in this investigation and there are no other countervailable subsidy rates on the record. Given these facts, Commerce has determined that a reasonable method for establishing the estimated all-others countervailable subsidy rate is to assign Gujarat Fertilizers' estimated countervailable subsidy rate to all other producers and exporters.

#### Final Determination

Commerce determines that the following estimated net countervailable subsidy rate exists for the period January 1, 2023, through December 31, 2023:

| <b>Company</b>                                  | <b>Subsidy Rate<br/>(percent <i>ad valorem</i>)</b> |
|---|---|
| Gujarat State Fertilizers and Chemicals Limited | 276.06  |
| All Others                                      | 276.06  |

#### Disclosure

Commerce intends to disclose its calculations and analysis performed to parties to the proceeding within five days of public announcement of this final determination or, if there is no public announcement, within five days of the date of publication of this notice in the *Federal Register*, in accordance with 19 CFR 351.244(b).

#### Continuation of Suspension of Liquidation

As a result of the *Preliminary Determination*, which included an affirmative critical circumstances determination, and pursuant to section 703(d)(1)(B) and (d)(2) of the Act, Commerce instructed U.S. Customs and Border Protection (CBP) to collect cash deposits and suspend liquidation of entries of subject merchandise as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after April 23, 2024, which is 90 days prior to the date of publication of the *Preliminary Determination* in the *Federal Register*.<sup>10</sup> In accordance with section 703(d) of the Act, on November 19, 2024, Commerce instructed CBP to discontinue the suspension of liquidation of all entries of subject merchandise entered or withdrawn from warehouse, on or after November 19, 2024, but to continue the suspension of liquidation of all entries of subject merchandise on or before November 18, 2024.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, Commerce will issue a CVD order, reinstate the suspension of liquidation under section 706(a) of the Act, and require a cash deposit of estimated countervailing duties for entries of subject merchandise in the amounts indicated in the table above. If the ITC determines that

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<sup>10</sup> See *Preliminary Determination*.

material injury, or threat of material injury, does not exist, this investigation will be terminated, and all estimated countervailing duties deposited, or securities posted as a result of the suspension of liquidation will be refunded or cancelled.

#### ITC Notification

In accordance with section 705(d) of the Act, Commerce will notify the ITC of its final affirmative determination that countervailable subsidies are being provided to producers and exporters of melamine from India. As Commerce's final determination is affirmative, in accordance with section 705(b) of the Act, the ITC will determine, within 45 days, whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of U.S. imports of melamine from India. Commerce is making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance. If the ITC determines that material injury or threat of material injury does not exist, this proceeding will be terminated and all cash deposits will be refunded.

If the ITC determines that such injury does exist, Commerce will issue a countervailing duty order directing CBP to assess, upon further instruction by Commerce, countervailing duties on all imports of the subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the "Continuation of Suspension of Liquidation" section.

#### Administrative Protective Order

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to the APO of their responsibility concerning the destruction of proprietary information disclosed under APO, in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or

conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act, and 19 CFR 351.210(c).

Dated: February 6, 2025.

Christopher Abbott,  
Deputy Assistant Secretary  
for Policy and Negotiations,  
performing the non-exclusive functions and duties  
of the Assistant Secretary for Enforcement and Compliance.

## Appendix I

### Scope of the Investigation

The merchandise subject to this investigation is melamine (Chemical Abstracts Service (CAS) registry number 108-78-01, molecular formula  $C_3H_6N_6$ ). Melamine is also known as 2,4,6-triamino-s-triazine; 1,3,5-Triazine-2,4,6- triamine; Cyanurotriamide; Cyanurotriamine; Cyanuramide; and by various brand names. Melamine is a crystalline powder or granule. All melamine is covered by the scope of this investigation irrespective of purity, particle size, or physical form. Melamine that has been blended with other products is included within this scope when such blends include constituent parts that have been intermingled, but that have not been chemically reacted with each other to produce a different product. For such blends, only the melamine component of the mixture is covered by the scope of this investigation. Melamine that is otherwise subject to this investigation is not excluded when commingled with melamine from sources not subject to this investigation. Only the subject component of such commingled products is covered by the scope of this investigation.

The subject merchandise is provided for in subheading 2933.61.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading and CAS registry number are provided for convenience and customs purposes, the written description of the scope is dispositive.

## Appendix II

### List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
  - II. Background
  - III. Scope of the Investigation
  - IV. Determination of Critical Circumstances
  - V. Use of Facts Otherwise Available and Application of Adverse Inferences
  - VI. Discussion of the Issues
    - Comment 1: Whether Duty Drawback (DDB) Program is a Non-countervailable and World Trade Organization (WTO) Compliant Program
    - Comment 2: Whether Commerce Incorrectly Countervailed the Remission of Duties and Taxes on Export Products (RoDTEP) Program
    - Comment 3: Whether the Urea Subsidy Program (USP) is Tied to Non-Subject Merchandise
    - Comment 4: Whether Commerce Improperly Applied Adverse Facts Available (AFA) to the Natural Gas at Less Than Adequate Remuneration (LTAR) Program
    - Comment 5: Whether Commerce Improperly Terminated its Verification of Gujarat Fertilizers
    - Comment 6: Whether Critical Circumstances Exist With Respect to Gujarat Fertilizers
  - VII. Recommendation
- [FR Doc. 2025-02548 Filed: 2/11/2025 8:45 am; Publication Date: 2/12/2025]